

CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

BRADBURY <u>Present</u>	BURNS <u>Present</u>	EDMONDS <u>Present</u>
GIAQUINTA <u>Present</u>	HENRY <u>Present</u>	LONG <u>Present</u>
REDD <u>Present</u>	SCHMIDT <u>Present</u>	TALARICO <u>Present</u>

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,  
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 24th day of September, 19 91, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 4th day of October, 19 91.

Sandra E. Kennedy  
City Clerk



PROCEEDINGS OF THE COMMON COUNCIL  
IN REGULAR SESSION  
TUESDAY, SEPTEMBER 24, 1991  
COMMON COUNCIL RECESSED REGULAR SESSION  
CONTINUED REGULAR SESSION  
SEPTEMBER 30, 1991  
CITY OF FORT WAYNE, INDIANA  
JOURNAL OF THE PROCEEDINGS  
OF THE COMMON COUNCIL

The Common Council of the City of Fort Wayne met in the Council Chambers Tuesday evening, September 24, 1991 in Regular Session and then recessed. Common Council then reconvened Monday evening September 30, 1991, in Regular Session. President Samuel J. Talarico in the chair, Council Attorney Stanley A. Levine, and Sandra E. Kennedy City Clerk, at the desk, present the following members nine viz -- at the September 24, 1991 and eight viz at the September 30, 1991 session.

September 24, 1991 -- nine viz:  
Bradbury, Burns, Edmonds, GiaQuinta, Henry,  
Long, Redd, Schmidt, Talarico

September 30, 1991 -- eight viz:  
Bradbury, Burns, Edmonds, GiaQuinta, Long,  
Redd, Schmidt, Talarico

One Absent:  
Henry

The minutes of the last regular September 10, 1991, session having been delivered to the Council, were, on motion, approved and published.



# The City of Fort Wayne

25 September 1991

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
CityCounty Building  
One Main Street  
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. G-91-09-10 (AS AMENDED)

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
25th day of September 1991.

Robert Hutner  
Secretary



# Division of Community Development & Planning

BRIEF TITLE Zoning Ordinance Amendment APPROVAL DEADLINE \_\_\_\_\_ REASON \_\_\_\_\_

## DETAILS

Specific Location and/or Address  N/A
Reason for Project  The proposal would amend the Zoning Ordinance to include the revised Sign Ordinance, and would repeal Chapter 34, which is the existing Sign Ordinance.
Discussion (Including relationship to other Council actions)  <u>16 September 1991 - Public Hearing</u>  See Attached Minutes of Meeting  <u>23 September 1991 - Business Meeting</u>  Motion was made and seconded to return the ordinance to the Common Council as amended with a DO PASS recommendation.  Of the eight (8) members present, seven (7) voted in favor of the motion, one (1) did not vote.  Motion carried.

## POSITIONS

## RECOMMENDATIONS

Sponsor	City Plan Commission
Area Affected	City Wide  Other Areas
Applicants/ Proponents	Applicant(s)  City Plan Commission City Department  Other
Opponents	Groups or Individuals Tom Niezer, attorney for Burkhart Advertising Basis of Opposition -new ordinance would prevent Burkhart from further expansion to the point of having a punitive impact on their business.
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against  Reason Against
Board or Commission Recommendation	By  <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

# DETAILS

## POLICY/PROGRAM IMPACT

Policy or  
Program  
Change

☐ No

☐ Yes

Operational  
Impact  
Assessment

(This space for further discussion)

Project Start

Date 30 August 1991

Projected Completion or Occupancy

Date 25 September 1991

Fact Sheet Prepared by

Patricia Biancaniello

Reviewed by

*Michael A. Sapp*

Reference or Case Number

Date 25 September 1991

Date



b. Bill No. G-91-09-10 - Ordinance Amendment #488

The proposal would amend the Zoning Ordinance to include the revised Sign Ordinance, and would repeal Chapter 34, which is the existing Sign Ordinance.

Doug Morris, 1806 California Avenue, appeared before the Commission representing the Sign Ordinance Review Committee. He stated that he was Chairman of the Committee. He stated that the existing ordinance has been in effect since 1986 as a separate ordinance and they are looking to incorporate it back into the Zoning Ordinance with some changes to the due process. He stated that the ordinance was passed from the Sign Committee to the Commission on a 6 to 1 vote in favor of the ordinance as presented to the Commission. He stated that the primary and only disagreement that the Committee had was over the off-premise signage. He stated that it centered around primarily the measurement method of separation. He stated that there were two aspects discussed, one being a radial measurement and the other being a lineal measurement. Radial measurement going from the center of the base of the sign and measuring out the given separation distance, striking an arc around the sign, that would be the separation area. This method would be used in separation distance in residential areas and around churches and schools. He stated the other method of measurement which is lineal, and would be used in the other zoning classifications where signs are allowed, is where you take the center of the sign base and go perpendicular to the right of way and then measure the distance linearly from that intersection along the right of way for separation from other signs. He stated that the current ordinance that they are operating with does not specifically note how the measurement should be made for the separation. He stated it calls for a separation distance but does not state how the measurement should occur. He stated that as a member of the Board of Zoning Appeals they have discussed it in their meetings and have interpreted on a radial measurement, understanding that it seems to be the most logical way to provide the separation from the districts in question. He stated the other aspect of the ordinance that affects the off premise signage is the prohibition of new billboards or off premise signs in the Central Business District. He stated that this revised ordinance is a product of a Committee that worked hard and if passed will be very good for the city of Fort Wayne. He stated that the goals of the original sign ordinance are met even more closely with this new ordinance. He stated the ordinance was modified in some other areas of the on premise signs to make it more understandable and to make it more easily enforced. He stated the goal was visual protection of residential districts, churches and schools and protection of the city's visual integrity while allowing adequate opportunity for businesses to have adequate signage.

Steve Smith questioned if in the ordinance or the city regulations of signs, were there any user fees or taxes assessed on billboards.



Greg Purcell stated that currently the only thing we have is a permit fee, which is 20 cents per square foot for the first side of the sign and 10 cents per square foot for the second side. He stated that the new ordinance as proposed would give the Plan Commission the authority to raise the fees at any time they saw fit. He stated that the revenues the city receives on an annual basis would be the property tax.

Steve Smith questioned if the Committee considered ongoing revenue uses fees or taxes on billboards.

Mr. Morris stated that they did not address that issue.

Bob Hutner stated that he felt the Sign Committee did a good job and as part of the BZA they had requested the Mayor to veto the previous Sign Ordinance. They felt it was not good for the city and that it was hard to work with.

Mel Smith questioned about what percentage would this reduce the cases brought before the Board of Zoning Appeals requesting a variance from the Sign Ordinance.

Wayne O'Brien stated that they would estimate 90% to a 95% reduction in certain types of requests, such as setbacks for signs.

Don Postel, 4712 Bradwood Terrace, appeared before the Commission in favor of the amendment. He stated he felt that this ordinance was a significant step forward from what the city has been living with since 1986. He presented information from two organizations one being "Scenic America" and the other "Southern Environmental Law Center". He stated that the latter has published a handbook on visual pollution and sign control. He stated that both of the organizations have been active since the early 80's. He stated that if you look at the recommendations of the two aforementioned organizations this ordinance does not satisfy all that they recommend that the community do to protect their environment and property values and to increase the safety of our roads. He stated it is however a very significant step in the right direction and therefore he supported the amendment and would like to see it become a part of the Zoning Ordinance without change. He stated if there were any changes it should be to firm up the ordinance even more.

Louis Petro, 4101 Plaza Drive, President of the Rudisill Plaza Neighborhood Association. He stated that he was speaking as a private citizen. He stated that he has been concerned for a long time that the location of off premise signs has created an attractive nuisance as conducive to a possibility for distraction and therefore accidents. He stated that in addition he was concerned about the environmental pollution that occurs by the location of certain signs that obscures very important and significant vistas within the city of Fort Wayne, particularly in



the downtown areas as it affects the view of monumental civic structures and church and social structures. He stated that because of his feelings he wanted to commend the Committee with coming up with an ordinance that will make a first good step in correcting those concerns. He stated that this is only an initial step and there is still much work to be done in regulating signs control.

Terry Partee, 1112 Old Bridge Place, Vice-President of the Fort Wayne Chamber of Commerce appeared before the Commission in opposition to the proposed amendment. Mr. Partee stated that he was speaking to express the Chambers concerns with what they call "regulatory overkill". He stated that the sign ordinance that has been in place since 1986 seems to be working. He stated that the net number of new off premise billboards is only 4 signs in a period of 5 years. He stated that they are concerned with the stifling of commerce in Fort Wayne.

John Shoaff stated that the Chamber covers a wide range of activities, one of which is tourism. He questioned if Mr. Partee felt that the billboards made the city more or less attractive.

Mr. Partee stated that it worked both ways. He stated that along the highways it helps direct people to locate businesses and significant sites of interest. He stated that if you are referring to downtown he felt that any billboards that obstruct some of the churches we have should probably be removed, but that was a personal opinion.

Mark Gensic questioned how many people were members of the Chamber.

Mr. Partee stated that they have 1800 members.

Mr. Gensic questioned how many they had heard from that had an opinion regarding the new ordinance.

Mr. Partee stated it was just a handful and those few were against the ordinance.

Wil Smith questioned what the complaint against the new ordinance was from the people who called the Chamber.

Mr. Partee stated that they felt it was a way of restricting commerce, and restricting peoples ability to make a living.

Richard Borton, 905 Third Street appeared before the Commission. Mr. Borton stated that he was in opposition to the ordinance because it was not restrictive enough. He stated that he wanted it "tightened up" even more.

Tom Neizer, attorney with Barrett & McNagny, appeared before the Commission representing Burkhart Advertising. Mr. Neizer stated that he was there to express Burkhart's "vehement" opposition to



the proposed ordinance. He stated that Burkhart's principal operation is located in South Bend, however they operate their business primarily in the northern third of the state of Indiana. He stated that basic business activity here in the city of Fort Wayne and in Allen County is to lease space to businesses for off premise sign advertising. He stated that they primarily engage in advertising of two signs, one of which is the 300 sf and the other 675 sf sign. He stated that those are standardized size signs throughout the off premise sign industry throughout the nation. He stated that Burkhart has approximately control of over 80% of the off premise sign industry in the city of Fort Wayne and Allen County. He stated that it is a virtual monopoly, one which they are very jealous of, which they have worked extremely hard to obtain and one that they have worked extremely hard to keep operating. He stated that it is for that reason that Burkhart had a representative who routinely attended the meetings of the Sign Review Committee. He stated that Burkhart employs in excess of 25 people, they have an annual payroll of \$800,000. He stated that they own and pay taxes on over 40 pieces of real estate in the Fort Wayne and Allen County area. He stated that permit fees is just one facet of what Burkhart contributes to this community. He stated that property taxes is another, their employees who live and work in the community is a facet as well, and that has to be kept in consideration. He stated that these facets are threaten by the ordinance that is being considered tonight. He stated that this is not the first revision to the proposed 1986 Sign Ordinance. He stated that it has been documented and well publicized that there is another ordinance before City Council this year, an ordinance that was initially introduced but later amended by Burkhart, this ordinance was approved by the Sign Committee. He passed out a chart indicating what had formally been approved by the Committee and had been presented to City Council. He stated that the chart gave them an excellent idea of what they had on the table a matter of months ago. He stated that if reviewed you can see that there are very few differences of opinions between the Committee's position and Burkhart's position. He stated that in fact the parties were very close to agreement except for the one outstanding issue, and that was over the radial versus lineal measurement spacing for the 300 sf sign. He stated that Burkhart Advertising had agreed that they should no longer be any new signage in the Central Business District of Fort Wayne. He stated that they agreed to the Committee's initial recommendation as to the radial spacing requirements for the 675 sf signs. He stated that they agreed with many of the separation requirements from off premises signs, and while there was some disagreement on 675 sf signs as indicated in yellow on the sheet, Burkhart ultimately indicated its willingness to go ahead and live with the Committee's recommendation. He stated that they were very close to a new ordinance, even with Burkhart's changes to the Committee's initial recommendation he stated he would submit and it was a submission that has been shared by him with members of the City staff that the ordinance as revised in its totality would have been more restrictive than the existing 1986 ordinance. However,



despite this fact, they started to hear complaints from the Mayor's office as well as from Mr. Morris that the concerns of the neighborhood community were not being given enough weight with the revisions to the Sign Ordinance. He stated that even with Burkhart's changes, had the initial ordinance been adopted in its totality, it would have been a more restrictive sign ordinance, especially to the off premise sign industry, than what we presently have under the existing ordinance passed in 1986. He stated that what we now have is not only an ordinance which excludes some signs from the Central Business District, it also excludes the 675 sf signs from all zoning districts except the M-3 District, which is tantamount to prohibiting all new 675 sf signs in the city of Fort Wayne. He stated that the proposed ordinance further establishes, what they consider to be, prohibitive radial and lineal spacing requirements, which if passed in to law by the Commission's recommendation to the Council, and their approval, will in their estimation result over a period of time, of not only a decline in new signs going up in the city of Fort Wayne, but also serious jeopardy to the viability of the Burkhart business itself. He stated that for those reasons you can not expect Burkhart Advertising just to sit by and watch this happen. This is a vital issue to them. He stated the fact that they are here tonight, the fact that they have sat on the Sign Review Committee during its existence, should tell this Commission, the Mayor's Office, and the Neighborhood's that Burkhart's is interested not only its own business, but it is interested in listening to and meeting the concerns of the citizen's of Fort Wayne. He stated that if it is the Commission's decision to go ahead and pass on the ordinance next Monday evening, so be it, this is on a fast track as it is, being that the Sign Review Committee recommended this no earlier than September 4th. He stated that before they do he wanted to point out some key facts that are lost, That seem to never come out when there is an opportunity. The first one to keep in mind is that Burkhart, the company where all of the criticism is being directed is a good corporate citizen in the city of Fort Wayne. They have a proven record of listening to the concerns of the neighborhood. They also have a proven record of working with the city of Fort Wayne. Mr. Niezer passed out a letter from the Public Information Office of the City to Burkhart advertising requesting Burkhart to donate free space on signs in the city to advertise the fact that they are going to try and bring in a national television host for minority business week. He stated that Burkhart has a proven history of complying and working with these types of requests, and it is just not with the city of Fort Wayne. He also passed out a list and compilation of letters from area businesses, including churches, the most notable being the St. Mary's church in downtown Fort Wayne. Letters for Burkhart, setting forth their acknowledgement of good works and Burkhart's willingness to go along and try and meet the concerns of the neighborhoods. He stated that this appears to be a fact that is lost in the shuffle when talking about how restrictive the existing Sign Ordinance is. The second fact to keep in mind is that the Sign Ordinance is not the only vehicle which regulates

the off premise sign industry of Burkhart Advertising. He stated that zoning regulations in and of themselves prohibit certain signs being located in certain places of the city. Traffic patterns effect where certain signs are going to be located. The ability to obtain property or lease property affects Burkhart's ability to place a sign anywhere it would like to. They do not own all the pieces of property where they have signs located, rather that property is leased with them. New development changes Burkhart's ability to place new signs in the city. One example is the Apple Glen development. That development pursuant to the city's recommendation, which was approved as part of the development plan, in the case that all off premise signs have to be taken down as development occurs at the Apple Glen site. He stated that is going to result in thirteen (13) 300 sf signs eventually being eliminated along W Jefferson Blvd., as Apple Glen develops. The other factor is market trends. Burkhart can not just locate a sign anywhere, it has to locate a sign where the public is going to see it. It is for that reason why 675 sf signs in an M3 District will virtually result in no signs at all. He stated that there are not many needs for signs in heavy industrially zoned districts, there is very little traffic going by there. He stated that those factors dictate where Burkhart can locate and place signs, it is not just this ordinance. He stated that the ordinance is just one component and he would argue that it is not even the most important component. He stated that now there is an attempt here to take the ordinance and virtually eliminate any new off premise signs and seriously damage the business interests of a significant employer in Fort Wayne. The third issue is that they have no problem here as was indicated earlier. Since 1986, since the inception of the existing ordinance, there have only been a net change of 4 new off premise signs in the city of Fort Wayne in 5 years. He stated that there is no problem with the existing ordinance. He stated that he felt it was the Sign Committee's intent to clean up the 1986 ordinance to standardize it and to put some uniformity into it, and it certainly does that. It goes a lot further than that though, and places severe if not punitive restrictions on the off premise sign industry, that is not uniformity that is a direct attack towards one industry being singled out, with a recommendation being made that they should no longer be able to exist in the city as they have done in years past. He stated that the last time he reviewed the file at the city, he saw petitions from various neighborhood groups and associations maybe amounting to 200 to 300 signatures in support of an ordinance of this type. Two to three hundred signatures in a city the size of Fort Wayne. And for some reason people are now saying that should be translated into a huge ground swell of public support for drastic changes in the Sign Ordinance. He stated he did not draw that same conclusion. He stated that it appears that the community associations did not take up their petitions on their own. It appears that they had a push or some one asked them to do so. Whether it be from the BZA from the staff, from the city itself, they did not in and of themselves decide to start speaking out and complaining against the existing



Sign Ordinance. Fourth and last, and perhaps he felt what was most troubling with this proposed ordinance, is the apparent and very easy to recognize disparaging treatment between on premise signs and off premise signs. In many of the same zoning districts where off premises signs are permitted, on premise signs are permitted as well. However, they (on premise signs) are permitted with much less restrictive spacing requirements from residentially zoned areas, they are given greater height variations up to 50 feet in some areas, and the setback requirements are also not as severe. For example in the M-1, M-2 and M-3 Districts they permit a 300 sf on premise sign located radially at 100 feet from the nearest residential district. He stated that an off premise sign of the same size however, is not only subject to more restrictive height requirements and setback requirements, but they are now required to be 500 feet based on a radial measurement separated from the residentially zoned properties. Why is there this disparity in treatment? There are perhaps 30 to 1 more on premise signs in the city than there are off premise signs. Why is it that they are directing all of their efforts to the off premise sign industry? I don't know. I can't explain it. Yet, I certainly hope it is not because of the content that those off premise signs utilize. Because if it is we have not only a problem in discrimination of treatment, but we have a very, very severe and significant constitutional issue as well, which will have to be addressed and dealt with. He stated that there is too much at stake to let this go by given the facts that we have here to date. He stated that Mr. O'Brien indicated earlier that he would expect a 90% to 95% decline in sign related variances being brought before the BZA. I would question that and I would ask Wayne (O'Brien) if there is some type of empirical evidence that the city can point to, I would certainly love the opportunity to review it. I think that the exact opposite is going to happen. He stated that we have such a severe restriction placed on the sign industry that I would anticipate there would be an increase in Use Variances, development variances from the terms and provisions of this ordinance by the very sign industry it is seeking to regulate. He stated that the new proposal has cleaned the ordinance up and standardized it, but everything done beyond that is going to burden clients such as Burkhardt's to come before the BZA to seek a variance from restrictions that they simply cannot live with. He stated that Mr. Purcell has indicated in the past that perhaps that is the way it should be, that they will get a fair and honest hearing in front of the BZA. Mr. Neizer stated that after hearing Mr. Morris's comments over the past few months and also seeing where the BZA has come out and taken a stand on this, there is no question in his mind but that is the last thing that they would receive. He stated that he did not feel there was any sentiment given in this information that has been emanating through the public to date that Burkhardt would be given a fair "shot" at any variance proposal brought before the BZA. The use of off premise signs helps not only Burkhardt, but as the Chamber has already noted, it is here in the city to help other businesses, both large and small. They use off premise signage

to communicate their businesses to the general public. It is a proven means of advertising, one that has been with us for a number of years. It is not the only means, there are other means as well, but it is part of an overall scheme that should be made available to each and every business in this community. It helps business by permitting it to advertise what it can do here in the city of Fort Wayne. Adoption of this type of ordinance, with these types of restrictions, not only sends a very clear message to Burkhart Advertising, but is also going to send a very clear, and in his opinion, negative message to the business community of this city as well. In closing he stated he would like to reiterate, Burkhart has a proven history of listening to these types of concerns. It is not their intent to go in and wreck a neighborhood by establishing a 675 sf, as Councilwoman Bradbury affectionately refers to it "sky-raper", type of sign in the city of Fort Wayne. It is not their intent nor do they do that, those type of comments are made because people do not understand all of the facts. He stated that he would ask the Commission as the Council did a number of months ago, to take the time, familiarize yourself with who Burkhart is and what they do and what they have done in the past and what they are willing to do in this city. He stated that they want to remain a part of this city. They are going to need your help to do that at this time. He then requested that the people in the audience who were in opposition to the ordinance, those either working for or affiliated with Burkhart to stand. He noted that it was well over half of the room that stood up. He stated that those people were present that evening because this decision effects their livelihood. Burkhart is their livelihood.

Bob Hutner stated that he is not nor did he believe that the Commission was in anyway anti-Burkhart. He stated that he has been a loyal personal customer of theirs (Burkhart's) and still utilizes some of their services. Mr. Hutner stated that he did not feel any of them, whether it be the people who wrote the ordinance, or the Commission, is criticizing in any way, shape, or form Burkhart as a corporate asset to the city of Fort Wayne, nor is it not appreciative of the favors the company has done for the city. He stated that they did not say that they were not a good corporate citizen of Fort Wayne.

Zach Lothamer, 2405 Barnhart Avenue

Linda Roe, 11111 Lantern Lane - both employees of Burkhart Advertising appeared before the Commission in opposition to the proposed ordinance. They stated that they felt this ordinance would have a direct affect on their jobs and felt it could eventually cause the company to go out of business. It was stated that the radial spacing does not just restrict them it prohibits their business.

Steve Smith stated that he has been led to believe that Burkhart has 85% of the market in outdoor advertising. He questioned that if they have only made 4 new billboard signs in the last 5 years why would this damage their business to prohibit any new signage.



He stated he understood that they have approximately 400 existing signs at this time.

Ms. Roe stated that this ordinance would prohibit them from placing any new billboard off premise signs. She stated that when any of the existing are removed they will not be allowed to replace them. She questioned what business is not allow to grow. She stating that this ordinance will prohibit them from growing.

In rebuttal, Doug Morris stated that he does not have any problem with Burkhart as a Company. He stated that one thing that the ordinance cannot do is to look at one company and their performance in a city and base an ordinance on that. He stated that we have to have an ordinance that works for everybody and not try to specifically tailor it to one organization. He stated that the existing ordinance as it is now, is being interpreted as a radial separation from these areas. He stated that the change in the ordinance should note the method specifically as radial interpretation so that the BZA does not have to address that as a variant item. He stated that the ordinance that was passed by the City Council based on the recommendations of Burkhart, did not include an exclusion of billboards from the downtown district. He stated that they (Burkhart) had also asked for that to be added back into the ordinance, but not to the existing scale. He stated that the ordinance that City Council adopted had changed the method of a variance. Whereas, a person coming in for a variance, has to prove hardship. They had changed the wording through the Council to have it that the petitioner show that they were not causing harm to any facing area. He stated that would put the burden on more neighborhood people and others to come forward and to prove the hardship back on the sign. He stated that the ordinance had taken the burden off of the petitioner. He stated that by putting it into the Zoning Ordinance the same burdens of proof for a variance exist as exist within the other zoning ordinance. He stated that there is a difference between off premise and on premise signs. He stated that there is a difference specifically in the use of the property. He stated that the owner of a piece of property has certain characteristics to it that allow develop and business to prosper there and signs are needed to develop them. He stated that the restrictions of those areas is not due to content of the sign, it is the use of the property and the context in which it is used. He stated that there is a real need for signage on a property where a business is located. He stated that the Committee did not do everything that the staff wanted. He stated that early on into discussions there were a lot of changes. He stated that there were compromises made with regard to the on premise sign usage. He stated that the ordinance was written to be fair as an ordinance by itself, not looking at an individual group in the process. He further stated that no where in the ordinance did they attempt to address the content on the signs.

There was no one else present who wished to speak in favor of or in opposition to the proposed amendment.

**Proposed amendment to the Zoning Ordinance.**

Petitioner: City of Fort Wayne  
Sign Review Committee  
Community & Economic Development

**Petition/Amendment:**

The proposal would amended the Zoning Ordinance to include the revised sign ordinance, and would repeal Chapter 34, which is the existing Sign Ordinance.

(A copy of the proposed amendment has been provided separately.)

**Planning Staff Discussion:**

This proposal represents the consensus of the Sign Review Committee. It regulates the placement, type and physical dimensions of signage, while providing for equal treatment of all concerned and provides protection of community property values and general welfare.

The text of the ordinance has been revised to provide for equal and fair treatment, eliminating some discrepancies that exist in the current ordinance. These revision will eliminate many of the variance petitions currently heard by the Board of Zoning Appeals.

Other important features of the proposal will be addressed in the handouts and public presentation.

Recommendation: Do Pass





# The City of Fort Wayne

25 September 1991

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
CityCounty Building  
One Main Street  
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:


Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-91-09-07

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
25th day of September 1991.

  
Robert Hutner  
Secretary

**FACT SHEET**

Z-91-09-07

BILL NUMBER

**Division of Community  
Development & Planning****BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From R-1 to R-3

**DETAILS****Specific Location and/or Address**

4219 Lake Av &amp; 1522 Inwood Dr

**Reason for Project**

Future use as an office / or expansion  
of existing office.

**Discussion (Including relationship to other Council actions)**

16 September 1991 - Public Hearing

Ron Rumbaugh, petitioner, 4207 Lake Avenue appeared before the Commission. Mr. Rumbaugh stated that the property at 4207 Lake Avenue is already zoned R-3 and he maintained his dental practice in that building. He stated that when they widen Lake Avenue it will render the property at 4219 Lake Avenue useless as residential. He stated that he was asking for the rezoning of 1522 Inwood Dr, which is also adjacent to the existing R-3, in order for the property to comply with the existing use of the property. He stated that this property (1522 Inwood Dr) is already being used as a professional office.

John Shoaff questioned what the use of 1522 Inwood Drive was.

Mr. Rumbaugh stated that Marc Cook had an insurance office located on the property.

There was no one else present who wished to speak in favor of or in opposition to the proposed rezoning.

**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents**

**Applicant(s)**  
Ronald Rumbaugh  
Marc Cook  
City Department

Other

**Opponents**

Groups or Individuals

Basis of Opposition

**Staff  
Recommendation**☒ For ☐ Against

Reason Against

**Board or  
Commission  
Recommendation**

By

☒ For ☐ Against  
☐ No Action Taken☐ For with revisions to conditions  
(See Details column for conditions)**CITY COUNCIL  
ACTIONS  
(For Council  
use only)**

☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass



**DETAILS**

**POLICY/ PROGRAM IMPACT**

23 September 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the eight (8) members present, seven (7) voted in favor of the motion, one (1) did not vote.

Motion carried.

Policy or  
Program  
Change

☐ No

☐ Yes

Operational  
Impact  
Assessment

(This space for further discussion)

**Project Start**

**Date** 5 August 1991

**Projected Completion or Occupancy**

**Date** 25 September 1991

**Fact Sheet Prepared by**

**Date** 25 September 1991

Patricia Biancaniello

**Reviewed by**

**Date**

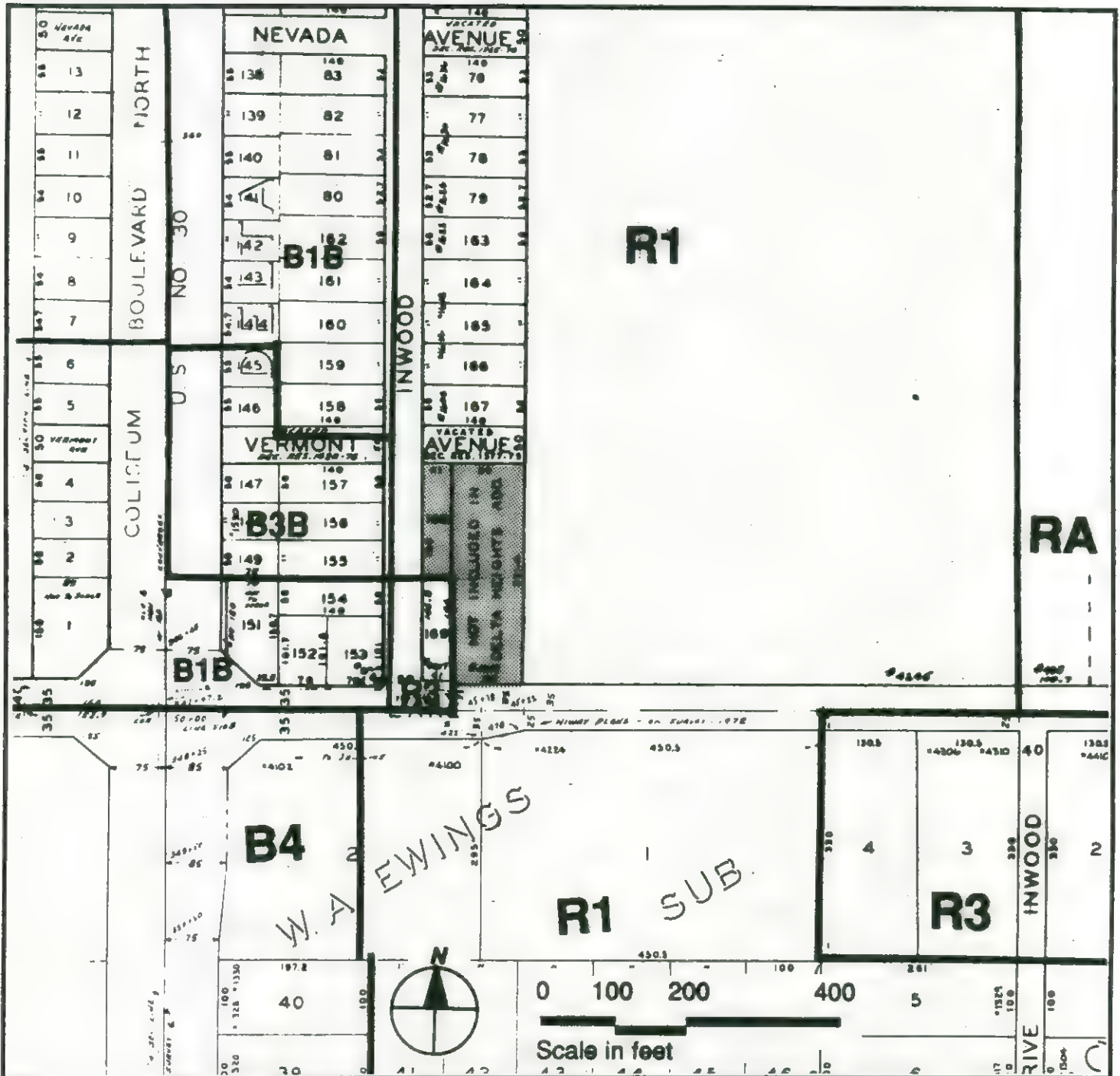
*Michael A. Sepp*

**Reference or Case Number**

# REZONING PETITION

## AREA MAP

CASE NO. #486



COUNCILMANIC DISTRICT NO. 2

Map No. S-14  
LW 8-20-91

<b>R1</b>	One-Family	<b>B1</b>	Limited Business	<b>M1</b>	Light Industrial
<b>R2</b>	Two-Family	<b>B2</b>	Planned Shopping Center	<b>M2</b>	General Industrial
<b>R3</b>	Multi-Family	<b>B3</b>	General Business	<b>M3</b>	Heavy Industrial
<b>RA/RB</b>	Residential	<b>B4</b>	Roadside Business	<b>MHP</b>	Mobile Home Park
<b>PUD</b>	Planned Unit Dev.	<b>POD</b>	Professional Office District		

24



## RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on September 10, 1991 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-91-09-07; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on September 16, 1991.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 23, 1991.

Certified and signed this  
25th day of September 1991.



Robert Hutner  
Secretary

Ronald L Rumbaugh and Marc Cook, request a change of zone from R-1 to R-3.

Location: 1522 Inwood Drive and 4219 Lake Avenue

Legal: See file

Land Area: Approximately 0.97 acres

Zoning: R-1

Surroundings:	North	R-1	Residential/Offices
	South	R-1	Residential
	East	R-1	Church
	West	R-3/B1B	Commercial

Reason for Request: Future use as an office / or expansion of existing office.

Neighborhood Assoc.: None

Comprehensive Plan: The general land use policies of the Comprehensive Plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal in the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

Landscape: No comment.

Neighborhood Plan: No comment.

Planning Staff Discussion:

This site is located at the northeast corner of Lake Avenue and Inwood Drive. Dr. Rumbaugh maintains a practice on the parcel immediately at the corner which is zoned R-3, and owns the property immediately east. Mr. Cook owns and operates a small office complex immediately north.

The intent of this petition is to allow for possible office uses in the structure located at 4219 Lake Avenue, and sharing of some parking facilities. Final approval would be dependent upon Board of Zoning Appeals approval upon petition. Dr. Rumbaugh's existing practice was approved in 1981 as a contingent use for a



dental office.

Mr. Cook's property is located to the north and currently houses a small office complex. In early 1987, Mr. Cook petitioned for a change of zone to B-1-A. Staff evaluated the petition and recommended a perfection to a Professional Office District, contingent upon the petitioner submitting a primary development plan meeting all of the requirements of the zoning ordinance, including landscape buffering. The conditions were not satisfied and the petition was returned to the Commission for a recommendation of do not pass. The existing development was approved by the BZA in 1984 as an use variance for an insurance office.

One of the problems associated with attempting to rezone a parcel to a POD after its development is associated with compliance to all requirements of setbacks, and landscaping. When dealing with in place development, the required setbacks may not be possible.

There is commercial development along the Coliseum Blvd. frontage, with additional offices located north on Inwood Drive. A church is immediately east, followed by a new apartment complex. The south side has commercial zoning on the Coliseum frontage, with residential classification extending east. The approval of this request would allow a potential re-use of the Lake Avenue site in a manner that could blend into the area extremely well, and provide for future expansion of both existing office developments.

The requested R-3 designation would allow for the Board of Zoning Appeals to approve the use of the properties as professional or commercial offices under the special use provisions of the ordinance. While the R-3 designation does include some potential higher intensity uses (non-profit private clubs, or multi-family residential), the relatively small size of the parcel would add a constraint on those types of development.

(Staff would like to point out that the Cook site, which is already developed as an office complex, is approximately 140' X 175 ', and makes up over one half of the subject land area.)

Recommendation: Do Pass for the following reasons:

- 1) Approval could provide for an orderly growth potential for these parcels, without encouraging additional rezoning.
- 2) Approval would be consistent with the development along the Inwood Drive frontage, and would allow expansion.
- 3) Approval would represent the highest or best land use for the site, in terms of responsible development.





# The City of Fort Wayne

24 September 1991

## COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
CityCounty Building  
One Main Street  
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. G-91-09-08

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
24th day of September 1991.

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Robert Hutner  
Secretary



# Division of Community Development & Planning

## BRIEF TITLE

Zoning Ordinance Amendment

## APPROVAL DEADLINE

## REASON

## DETAILS

## Specific Location and/or Address

N/A

## Reason for Project

This amendment will allow for a mortuary as a "Special Use" in the R-1, R-2, RA and RB districts under the Special Use provisions of the Zoning Ordinance.

## Discussion (Including relationship to other Council actions)

16 September 1991 - Public Hearing

Greg Purcell, Executive Director of C&ED appeared before the Commission. Mr. Purcell stated that at the last Plan Commission meeting there was a petition for a rezoning for a mortuary. He stated that the Commission wanted to approve it and so did the staff, but they did not want to set a precedent and allow all of the uses there that the requested zoning would allow. He stated that as a result, they asked the Commission's consent at that time to move forward on a zoning ordinance amendment, which would allow a mortuary use in the above stated districts with approval of the Board of Zoning Appeals. He stated that this is the ordinance that would accomplish that and would allow the petitioner to come back into the Board of Zoning Appeals to establish the use at the location they had requested rezoned.

There was no one else present who wished to speak in favor of or in opposition to the proposed amendment.

## POSITIONS

## RECOMMENDATIONS

## Sponsor

City Plan Commission

## Area Affected

City Wide

Other Areas

Applicants/  
Proponents

## Applicant(s)

City Plan Commission  
City Department

Other

## Opponents

## Groups or Individuals

Basis of Opposition

Staff  
Recommendation
☒ For ☐ Against

Reason Against

Board or  
Commission  
Recommendation

## By

☒ For ☐ Against  
☐ No Action Taken

☐ For with revisions to conditions  
 (See Details column for conditions)

 CITY COUNCIL  
ACTIONS  
(For Council  
use only)

☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass

**DETAILS**

23 September 1991 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the eight (8) members present, seven (7) voted in favor of the motion, one (1) did not vote.

Motion carried.

**POLICY/ PROGRAM IMPACT**

Policy or  
Program  
Change

☐

No

☐

Yes

Operational  
Impact  
Assessment

(This space for further discussion)

Project Start

Date 30 August 1991

Projected Completion or Occupancy

Date 24 September 1991

Fact Sheet Prepared by  
Patricia Biancaniello

Date 24 September 1991

Reviewed by  
*Michael A. Sapp*

Date

Reference or Case Number